

AMENDED IN ASSEMBLY APRIL 18, 2016

**SENATE BILL**

**No. 693**

**Introduced by Senator Hueso**

*(Principal coauthor: Assembly Member Ridley-Thomas)*

February 27, 2015

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An act to amend ~~Section 25205 of the Public Resources Code, relating to the State Energy Resources Conservation and Development Commission. Sections 17250.25 and 17407.5 of the Education Code, and to amend Sections 20119.1, 20119.3, and 20155.4 of, to repeal Section 20155.2 of, and to add Chapter 2.9 (commencing with Section 2600) to Part 1 of Division 2 of, the Public Contract Code, relating to employment.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 693, as amended, Hueso. ~~State Energy Resources Conservation and Development Commission: qualifications; conflicts of interest. Public contracts: skilled and trained workforce.~~

*Existing law establishes specific instances where a public entity is required to obtain an enforceable commitment that a bidder, contractor, or other entity will use a skilled and trained workforce to complete a contract or project.*

*This bill would establish provisions to be generally applicable when a public entity is required by statute or regulation to obtain an enforceable commitment that a bidder, contractor, or other entity will use a skilled and trained workforce to complete a contract or project. The bill would also authorize a public entity to require that a bidder, contractor, or other entity use a skilled and trained workforce to complete a contract or project.*

*Existing law relating to school facilities provides for the lease of property and prohibits the governing board of a school district from entering into specific lease agreements for the construction of buildings for the use of the school district with any entity unless the entity provides to the governing board an enforceable commitment that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades.*

*Existing law relating to school facilities, operative July 1, 2016, and until January 1, 2025, also authorizes a school district, with the approval of the governing board of the school district, to procure design-build contracts for certain public works projects, as provided, and prohibits a design-build entity from being prequalified or shortlisted unless the entity provides a similar enforceable commitment to the school district with respect to the use of a skilled and trained workforce.*

*Existing law, until January 1, 2021, establishes a pilot program to authorize the Los Angeles Unified School District to use a best value procurement method for bid evaluation and selection for certain public projects (LAUSD pilot program). The LAUSD pilot program precludes the prequalification or shortlisting of a best value entity unless the entity provides a similar enforceable commitment to the governing board of the district with respect to the use of a skilled and trained workforce.*

*Existing law establishes a pilot program to allow the Counties of Alameda, Los Angeles, Riverside, San Bernardino, San Diego, Solano, and Yuba to select a bidder on the basis of best value, as defined, for specific construction projects (pilot program for counties). The pilot program for counties precludes the prequalification or shortlisting of a best value contractor unless the contractor provides a similar enforceable commitment to the county with respect to the use of a skilled and trained workforce.*

*This bill would revise those provisions specifically applicable to school facilities, the LAUSD pilot program, and the pilot program for counties to require, instead, an enforceable commitment for the use of a skilled and trained workforce in accordance with the above-described generally applicable provisions for the use of a skilled and trained workforce, unless there is a prescribed project labor agreement.*

*The bill, except as specified, would not apply to contracts advertised for bid or awarded before January 1, 2016.*

*The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the*

writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

*This bill would make legislative findings to that effect.*

~~Existing law establishes the State Energy Resources Conservation and Development Commission, commonly known as the Energy Commission. Existing law prescribes certain qualifications for members of the Energy Commission, including a prohibition against receiving a substantial portion of income from specified energy-related entities in the 2 years preceding appointment to the Energy Commission. Existing law prohibits members of the Energy Commission from being employed by an electric utility or applicant or, within 2 years after the member ceases to be a member of the Energy Commission, a person who engages in the sale or manufacture of a major component of a facility. Existing law prohibits a member of the Energy Commission from holding any other elected or appointed public office or position, except as specified. Existing law prohibits persons with specified relationships to a member or employee of the Energy Commission from appearing in proceedings and other matters in which the Energy Commission is a party or has a direct and substantial interest. Existing law prohibits a member or employee of the Energy Commission from participating personally and substantially as a member or employee of the Energy Commission in particular matters in which to his or her knowledge, he or she, his or her spouse, minor child, or partner, or any organization in which he or she is serving, or has served, has a direct or indirect financial interest. Existing law makes the violation of these provisions a felony subject to fine of not more than \$10,000 or imprisonment, or both.~~

~~This bill would increase the maximum fine to \$50,000 for a violation of those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 17250.25 of the Education Code, as added
- 2     by Section 2 of Chapter 752 of the Statutes of 2015, is amended
- 3     to read:
- 4     17250.25. The procurement process for design-build projects
- 5     shall progress as follows:

1 (a) (1) The school district shall prepare a set of documents  
2 setting forth the scope and estimated price of the project. The  
3 documents may include, but are not limited to, the size, type, and  
4 desired design character of the project, performance specifications  
5 covering the quality of materials, equipment, workmanship,  
6 preliminary plans or building layouts, or any other information  
7 deemed necessary to describe adequately the school district's  
8 needs. The performance specifications and any plans shall be  
9 prepared by a design professional who is duly licensed and  
10 registered in California.

11 (2) The documents shall not include a design-build-operate  
12 contract for a project. The documents, however, may include  
13 operations during a training or transition period, but shall not  
14 include long-term operations for a project.

15 (b) The school district shall prepare and issue a request for  
16 qualifications in order to prequalify, or develop a short-list of, the  
17 design-build entities whose proposals shall be evaluated for final  
18 selection. The request for qualifications shall include, but is not  
19 limited to, all of the following elements:

20 (1) Identification of the basic scope and needs of the project or  
21 contract, the expected cost range, the methodology that will be  
22 used by the school district to evaluate proposals, the procedure for  
23 final selection of the design-build entity, and any other information  
24 deemed necessary by the school district to inform interested parties  
25 of the contracting opportunity.

26 (2) Significant factors that the school district reasonably expects  
27 to consider in evaluating qualifications, including technical design  
28 and construction expertise, acceptable safety record, and all other  
29 nonprice-related factors.

30 (3) A standard template request for statements of qualifications  
31 prepared by the school district. In preparing the standard template,  
32 the school district may consult with the construction industry, the  
33 building trades and surety industry, and other school districts  
34 interested in using the authorization provided by this chapter. The  
35 template shall require the following information:

36 (A) If the design-build entity is a privately held corporation,  
37 limited liability company, partnership, or joint venture, a listing  
38 of all of the shareholders, partners, or members known at the time  
39 of statement of qualification submission who will perform work  
40 on the project.

1 (B) Evidence that the members of the design-build team have  
2 completed, or demonstrated the experience, competency, capability,  
3 and capacity to complete, projects of similar size, scope, or  
4 complexity, and that the proposed key personnel have sufficient  
5 experience and training to competently manage and complete the  
6 design and construction of the project, and a financial statement  
7 that ensures that the design-build entity has the capacity to  
8 complete the project.

9 (C) The licenses, registration, and credentials required to design  
10 and construct the project, including, but not limited to, information  
11 on the revocation or suspension of any license, credential, or  
12 registration.

13 (D) Evidence that establishes that the design-build entity has  
14 the capacity to obtain all required payment and performance  
15 bonding, liability insurance, and errors and omissions insurance.

16 (E) Information concerning workers' compensation experience  
17 history and a worker safety program.

18 (F) If the proposed design-build entity is a corporation, limited  
19 liability company, partnership, joint venture, or other legal entity,  
20 a copy of the organizational documents or agreement committing  
21 to form the organization.

22 (G) An acceptable safety record. A proposer's safety record  
23 shall be deemed acceptable if its experience modification rate for  
24 the most recent three-year period is an average of 1.00 or less, and  
25 its average total recordable injury or illness rate and average lost  
26 work rate for the most recent three-year period does not exceed  
27 the applicable statistical standards for its business category, or if  
28 the proposer is a party to an alternative dispute resolution system,  
29 as provided for in Section 3201.5 of the Labor Code.

30 (4) (A) The information required under this subdivision shall  
31 be certified under penalty of perjury by the design-build entity and  
32 its general partners or joint venture members.

33 (B) Information required under this subdivision that is not  
34 otherwise a public record under the California Public Records Act  
35 (Chapter 3.5 (commencing with Section 6250) of Division 7 of  
36 Title 1 of the Government Code) shall not be open to public  
37 inspection.

38 (c) (1) A design-build entity shall not be prequalified or  
39 shortlisted unless the entity provides an enforceable commitment  
40 to the school district that the entity and its subcontractors at every

1 tier will use a skilled and trained workforce to perform all work  
2 on the project or contract that falls within an apprenticeable  
3 occupation in the building and construction ~~trades~~. *trades, in*  
4 *accordance with Chapter 2.9 (commencing with Section 2600) of*  
5 *Part 1 of Division 2 of the Public Contract Code.*

6 ~~(1) For purposes of this subdivision:~~

7 ~~(A) “Apprenticeable occupation” means an occupation for which~~  
8 ~~the Chief of the Division of Apprenticeship Standards had approved~~  
9 ~~an apprenticeship program pursuant to Section 3075 of the Labor~~  
10 ~~Code before January 1, 2014.~~

11 ~~(B) “Skilled and trained workforce” means a workforce that~~  
12 ~~meets all of the following conditions:~~

13 ~~(i) All the workers are either skilled journeypersons or~~  
14 ~~apprentices registered in an apprenticeship program approved by~~  
15 ~~the Chief of the Division of Apprenticeship Standards.~~

16 ~~(ii) (I) As of July 1, 2016, at least 20 percent of the skilled~~  
17 ~~journeypersons employed to perform work on the contract or~~  
18 ~~project by the entity and each of its subcontractors at every tier~~  
19 ~~are graduates of an apprenticeship program for the applicable~~  
20 ~~occupation that was either approved by the Chief of the Division~~  
21 ~~of Apprenticeship Standards pursuant to Section 3075 of the Labor~~  
22 ~~Code or located outside California and approved for federal~~  
23 ~~purposes pursuant to the apprenticeship regulations adopted by~~  
24 ~~the federal Secretary of Labor.~~

25 ~~(II) As of July 1, 2017, at least 30 percent of the skilled~~  
26 ~~journeypersons employed to perform work on the contract or~~  
27 ~~project by the entity and each of its subcontractors at every tier~~  
28 ~~are graduates of an apprenticeship program for the applicable~~  
29 ~~occupation that was either approved by the Chief of the Division~~  
30 ~~of Apprenticeship Standards pursuant to Section 3075 of the Labor~~  
31 ~~Code or located outside California and approved for federal~~  
32 ~~purposes pursuant to the apprenticeship regulations adopted by~~  
33 ~~the federal Secretary of Labor.~~

34 ~~(III) As of July 1, 2018, at least 40 percent of the skilled~~  
35 ~~journeypersons employed to perform work on the contract or~~  
36 ~~project by the entity and each of its subcontractors at every tier~~  
37 ~~are graduates of an apprenticeship program for the applicable~~  
38 ~~occupation that was either approved by the Chief of the Division~~  
39 ~~of Apprenticeship Standards pursuant to Section 3075 of the Labor~~  
40 ~~Code or located outside California and approved for federal~~

1 ~~purposes pursuant to the apprenticeship regulations adopted by~~  
2 ~~the federal Secretary of Labor.~~

3 ~~(IV) As of July 1, 2019, at least 50 percent of the skilled~~  
4 ~~journeypersons employed to perform work on the contract or~~  
5 ~~project by the entity and each of its subcontractors at every tier~~  
6 ~~are graduates of an apprenticeship program for the applicable~~  
7 ~~occupation that was either approved by the Chief of the Division~~  
8 ~~of Apprenticeship Standards pursuant to Section 3075 of the Labor~~  
9 ~~Code or located outside California and approved for federal~~  
10 ~~purposes pursuant to the apprenticeship regulations adopted by~~  
11 ~~the federal Secretary of Labor.~~

12 ~~(V) As of July 1, 2020, at least 60 percent of the skilled~~  
13 ~~journeypersons employed to perform work on the contract or~~  
14 ~~project by the entity and each of its subcontractors at every tier~~  
15 ~~are graduates of an apprenticeship program for the applicable~~  
16 ~~occupation that was either approved by the Chief of the Division~~  
17 ~~of Apprenticeship Standards pursuant to Section 3075 of the Labor~~  
18 ~~Code or located outside California and approved for federal~~  
19 ~~purposes pursuant to the apprenticeship regulations adopted by~~  
20 ~~the federal Secretary of Labor.~~

21 ~~(iii) For an apprenticeable occupation in which no apprenticeship~~  
22 ~~program had been approved by the Chief of the Division of~~  
23 ~~Apprenticeship Standards before January 1, 1995, up to one-half~~  
24 ~~of the graduation percentage requirements of clause (ii) may be~~  
25 ~~satisfied by skilled journeypersons who commenced working in~~  
26 ~~the apprenticeable occupation prior to the chief's approval of an~~  
27 ~~apprenticeship program for that occupation in the county in which~~  
28 ~~the project is located.~~

29 ~~(C) "Skilled journeyperson" means a worker who either:~~

30 ~~(i) Graduated from an apprenticeship program for the applicable~~  
31 ~~occupation that was approved by the Chief of the Division of~~  
32 ~~Apprenticeship Standards or located outside California and~~  
33 ~~approved for federal purposes pursuant to the apprenticeship~~  
34 ~~regulations adopted by the federal Secretary of Labor.~~

35 ~~(ii) Has at least as many hours of on-the-job experience in the~~  
36 ~~applicable occupation as would be required to graduate from an~~  
37 ~~apprenticeship program for the applicable occupation that is~~  
38 ~~approved by the chief.~~

~~(2) An entity's commitment that a skilled and trained workforce will be used to perform the project or contract may be established by any of the following:~~

~~(A) The entity's agreement with the school district that the entity and its subcontractors at every tier will comply with the requirements of this subdivision and that the entity will provide the school district with evidence, on a monthly basis while the project or contract is being performed, that the entity and its subcontractors are complying with the requirements of this subdivision.~~

~~(B) If the school district has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract and that includes the requirements of this subdivision, the entity's agreement that it will become a party to that project labor agreement.~~

~~(C) Evidence that the entity has entered into a project labor agreement that includes the requirements of this subdivision and that will bind the entity and all its subcontractors at every tier performing the project or contract.~~

*(2) This subdivision shall not apply if either:*

*(A) The school district has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract and the entity agrees to be bound by that project labor agreement.*

*(B) The entity has entered into a project labor agreement that will bind the entity and all its subcontractors at every tier performing the project or contract.*

*(3) For purposes of this subdivision, "project labor agreement" has the same meaning as in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.*

(d) Based on the documents prepared as described in subdivision (a), the school district shall prepare a request for proposals that invites prequalified or short-listed entities to submit competitive sealed proposals in the manner prescribed by the school district. The request for proposals shall include, but need not be limited to, the following elements:

(1) Identification of the basic scope and needs of the project or contract, the estimated cost of the project, the methodology that will be used by the school district to evaluate proposals, whether the contract will be awarded on the basis of low bid or best value,



1 and any other information deemed necessary by the school district  
2 to inform interested parties of the contracting opportunity.

3 (2) Significant factors that the school district reasonably expects  
4 to consider in evaluating proposals, including, but not limited to,  
5 cost or price and all nonprice-related factors.

6 (3) The relative importance or the weight assigned to each of  
7 the factors identified in the request for proposals.

8 (4) Where a best value selection method is used, the school  
9 district may reserve the right to request proposal revisions and  
10 hold discussions and negotiations with responsive proposers, in  
11 which case the school district shall so specify in the request for  
12 proposals and shall publish separately or incorporate into the  
13 request for proposals applicable procedures to be observed by the  
14 school district to ensure that any discussions or negotiations are  
15 conducted in good faith.

16 (e) For those projects utilizing low bid as the final selection  
17 method, the competitive bidding process shall result in lump-sum  
18 bids by the prequalified or short-listed design-build entities, and  
19 awards shall be made to the design-build entity that is the lowest  
20 responsible bidder.

21 (f) For those projects utilizing best value as a selection method,  
22 the design-build competition shall progress as follows:

23 (1) Competitive proposals shall be evaluated by using only the  
24 criteria and selection procedures specifically identified in the  
25 request for proposals. The following minimum factors, however,  
26 shall be weighted as deemed appropriate by the school district:

27 (A) Price, unless a stipulated sum is specified.

28 (B) Technical design and construction expertise.

29 (C) Life-cycle costs over 15 or more years.

30 (2) Pursuant to subdivision (d), the school district may hold  
31 discussions or negotiations with responsive proposers using the  
32 process articulated in the school district's request for proposals.

33 (3) When the evaluation is complete, the responsive proposers  
34 shall be ranked based on a determination of value provided,  
35 provided that no more than three proposers are required to be  
36 ranked.

37 (4) The award of the contract shall be made to the responsible  
38 design-build entity whose proposal is determined by the school  
39 district to have offered the best value to the public.

(5) Notwithstanding any other provision of law, upon issuance of a contract award, the school district shall publicly announce its award, identifying the design-build entity to which the award is made, along with a statement regarding the basis of the award.

(6) The statement regarding the school district's contract award, described in paragraph (5), and the contract file shall provide sufficient information to satisfy an external audit.

*SEC. 2. Section 17407.5 of the Education Code is amended to read:*

17407.5. (a) The governing board of a school district shall not enter into an agreement pursuant to Section 17406 or 17407 with any entity unless the entity provides to the governing board of the school district an enforceable commitment that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades. *trades, in accordance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.*

~~(b) For purposes of this section:~~

~~(1) "Apprenticeable occupation" means an occupation for which the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations had approved an apprenticeship program pursuant to Section 3075 of the Labor Code before January 1, 2014.~~

~~(2) "Chief" means the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations.~~

~~(3) "Skilled and trained workforce" means a workforce that meets all of the following conditions:~~

~~(A) All the workers are either skilled journeypersons or apprentices registered in an apprenticeship program approved by the chief.~~

~~(B) (i) As of January 1, 2016, at least 30 percent of the skilled journeypersons employed to perform work on the contract or project by the entity and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation that was either approved by the chief pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.~~

1     (ii) ~~As of January 1, 2017, at least 40 percent of the skilled~~  
2 ~~journeypersons employed to perform work on the contract or~~  
3 ~~project by the entity and each of its subcontractors at every tier~~  
4 ~~are graduates of an apprenticeship program for the applicable~~  
5 ~~occupation that was either approved by the chief pursuant to~~  
6 ~~Section 3075 of the Labor Code or located outside California and~~  
7 ~~approved for federal purposes pursuant to the apprenticeship~~  
8 ~~regulations adopted by the federal Secretary of Labor.~~

9     (iii) ~~As of January 1, 2018, at least 50 percent of the skilled~~  
10 ~~journeypersons employed to perform work on the contract or~~  
11 ~~project by the entity and each of its subcontractors at every tier~~  
12 ~~are graduates of an apprenticeship program for the applicable~~  
13 ~~occupation that was either approved by the chief pursuant to~~  
14 ~~Section 3075 of the Labor Code or located outside California and~~  
15 ~~approved for federal purposes pursuant to the apprenticeship~~  
16 ~~regulations adopted by the federal Secretary of Labor.~~

17     (iv) ~~As of January 1, 2019, at least 60 percent of the skilled~~  
18 ~~journeypersons employed to perform work on the contract or~~  
19 ~~project by the entity and each of its subcontractors at every tier~~  
20 ~~are graduates of an apprenticeship program for the applicable~~  
21 ~~occupation that was either approved by the chief pursuant to~~  
22 ~~Section 3075 of the Labor Code or located outside California and~~  
23 ~~approved for federal purposes pursuant to the apprenticeship~~  
24 ~~regulations adopted by the federal Secretary of Labor.~~

25     (C) ~~For an apprenticeable occupation in which no apprenticeship~~  
26 ~~program had been approved by the chief before January 1, 1995,~~  
27 ~~up to one-half of the graduation percentage requirements of~~  
28 ~~subparagraph (B) may be satisfied by skilled journeypersons who~~  
29 ~~commenced working in the apprenticeable occupation before the~~  
30 ~~chief's approval of an apprenticeship program for that occupation~~  
31 ~~in the county in which the project is located.~~

32     (4) ~~“Skilled journeyperson” means a worker who either:~~

33     (A) ~~Graduated from an apprenticeship program for the applicable~~  
34 ~~occupation that was approved by the chief or located outside~~  
35 ~~California and approved for federal purposes pursuant to the~~  
36 ~~apprenticeship regulations adopted by the federal Secretary of~~  
37 ~~Labor.~~

38     (B) ~~Has at least as many hours of on-the-job experience in the~~  
39 ~~applicable occupation as would be required to graduate from an~~

1 apprenticeship program for the applicable occupation that is  
2 approved by the chief.

3 (e) ~~An entity's commitment that a skilled and trained workforce~~  
4 ~~will be used to perform the project or contract may be established~~  
5 ~~by any of the following:~~

6 (1) (A) ~~The entity's agreement with the governing board of the~~  
7 ~~school district that the entity and its subcontractors at every tier~~  
8 ~~will comply with the requirements of this section and that the entity~~  
9 ~~will provide to the governing board of the school district, on a~~  
10 ~~monthly basis while the project or contract is being performed, a~~  
11 ~~report demonstrating that the entity and its subcontractors are~~  
12 ~~complying with the requirements of this section.~~

13 (B) ~~If the entity fails to provide to the governing board of the~~  
14 ~~school district the monthly report pursuant to subparagraph (A);~~  
15 ~~the governing board of the school district shall immediately cease~~  
16 ~~making payments to the entity pursuant to the instrument or~~  
17 ~~agreement described in Section 17406 or 17407.~~

18 (C) ~~The monthly report provided to the governing board of the~~  
19 ~~school district pursuant to this paragraph shall be a public record~~  
20 ~~under the California Public Records Act (Chapter 3.5 (commencing~~  
21 ~~with Section 6250) of Division 7 of Title 1 of the Government~~  
22 ~~Code), and shall be open to public inspection.~~

23 (2) ~~If the governing board of a school district has entered into~~  
24 ~~a project labor agreement that will bind all contractors and~~  
25 ~~subcontractors performing work on the project or contract and that~~  
26 ~~includes the requirements of this section, the entity's agreement~~  
27 ~~that it will become a party to that project labor agreement.~~

28 (3) ~~Evidence that the entity has entered into a project labor~~  
29 ~~agreement that includes the requirements of this section and that~~  
30 ~~will bind the entity and all its subcontractors at every tier~~  
31 ~~performing the project or contract.~~

32 (b) *Subdivision (a) shall not apply if either:*

33 (1) *The governing board of the school district has entered into*  
34 *a project labor agreement that will bind all contractors and*  
35 *subcontractors performing work on the project or contract and*  
36 *the entity agrees to be bound by that project labor agreement.*

37 (2) *The entity has entered into a project labor agreement that*  
38 *will bind the entity and all its subcontractors at every tier*  
39 *performing the project or contract.*

1 (c) For purposes of this section, “project labor agreement” has  
2 the same meaning as in paragraph (1) of subdivision (b) of Section  
3 2500 of the Public Contract Code.

4 SEC. 3. Chapter 2.9 (commencing with Section 2600) is added  
5 to Part 1 of Division 2 of the Public Contract Code, to read:

6  
7 CHAPTER 2.9. SKILLED AND TRAINED WORKFORCE  
8 REQUIREMENTS  
9

10 2600. (a) This chapter applies when a public entity is required  
11 by statute or regulation to obtain an enforceable commitment that  
12 a bidder, contractor, or other entity will use a skilled and trained  
13 workforce to complete a contract or project.

14 (b) A public entity may require a bidder, contractor, or other  
15 entity to use a skilled and trained workforce to complete a contract  
16 or project regardless of whether the public entity is required to  
17 do so by a statute or regulation.

18 2601. For purposes of this chapter:

19 (a) “Apprenticeable occupation” means an occupation for  
20 which the Chief of the Division of Apprenticeship Standards of the  
21 Department of Industrial Relations had approved an apprenticeship  
22 program pursuant to Section 3075 of the Labor Code before  
23 January 1, 2014.

24 (b) “Chief” means the Chief of the Division of Apprenticeship  
25 Standards of the Department of Industrial Relations.

26 (c) “Skilled and trained workforce” means a workforce that  
27 meets all of the following conditions:

28 (1) All the workers performing work in an apprenticeable  
29 occupation in the building and construction trades are either  
30 skilled journeypersons or apprentices registered in an  
31 apprenticeship program approved by the chief.

32 (2) (A) For work performed on or after January 1, 2017, at  
33 least 30 percent of the skilled journeypersons employed to perform  
34 work on the contract or project by every contractor and each of  
35 its subcontractors at every tier are graduates of an apprenticeship  
36 program for the applicable occupation that was either approved  
37 by the chief pursuant to Section 3075 of the Labor Code or located  
38 outside California and approved for federal purposes pursuant to  
39 the apprenticeship regulations adopted by the federal Secretary  
40 of Labor.

1     (B) For work performed on or after January 1, 2018, at least  
2     40 percent of the skilled journeypersons employed to perform work  
3     on the contract or project by every contractor and each of its  
4     subcontractors at every tier are graduates of an apprenticeship  
5     program for the applicable occupation that was either approved  
6     by the chief pursuant to Section 3075 of the Labor Code or located  
7     outside California and approved for federal purposes pursuant to  
8     the apprenticeship regulations adopted by the federal Secretary  
9     of Labor.

10    (C) For work performed on or after January 1, 2019, at least  
11    50 percent of the skilled journeypersons employed to perform work  
12    on the contract or project by every contractor and each of its  
13    subcontractors at every tier are graduates of an apprenticeship  
14    program for the applicable occupation that was either approved  
15    by the chief pursuant to Section 3075 of the Labor Code or located  
16    outside California and approved for federal purposes pursuant to  
17    the apprenticeship regulations adopted by the federal Secretary  
18    of Labor.

19    (D) For work performed on or after January 1, 2020, at least  
20    60 percent of the skilled journeypersons employed to perform work  
21    on the contract or project by every contractor and each of its  
22    subcontractors at every tier are graduates of an apprenticeship  
23    program for the applicable occupation that was either approved  
24    by the chief pursuant to Section 3075 of the Labor Code or located  
25    outside California and approved for federal purposes pursuant to  
26    the apprenticeship regulations adopted by the federal Secretary  
27    of Labor.

28    (3) For an apprenticeable occupation in which no  
29    apprenticeship program had been approved by the chief before  
30    January 1, 1995, up to one-half of the graduation percentage  
31    requirements of paragraph (2) may be satisfied by skilled  
32    journeypersons who commenced working in the apprenticeable  
33    occupation before the chief's approval of an apprenticeship  
34    program for that occupation in the county in which the project is  
35    located.

36    (4) The apprenticeship graduation percentage requirements of  
37    paragraph (2) are satisfied if, in a particular calendar month,  
38    either of the following is true:

39    (A) At least the required percentage of the skilled  
40    journeypersons employed by the contractor or subcontractor to

1 *perform work on the contract or project meet the graduation*  
2 *percentage requirement.*

3 *(B) For the hours of work performed by skilled journeypersons*  
4 *employed by the contractor or subcontractor on the contract or*  
5 *project, the percentage of hours performed by skilled*  
6 *journeypersons who met the graduation requirement is at least*  
7 *equal to the required graduation percentage.*

8 *(5) The contractor or subcontractor need not meet the*  
9 *apprenticeship graduation requirements of paragraph (2) if, during*  
10 *the calendar month, the contractor or subcontractor employs*  
11 *skilled journeypersons to perform fewer than 10 hours of work on*  
12 *the contract or project.*

13 *(d) "Skilled journeyperson" means a worker who either:*

14 *(1) Graduated from an apprenticeship program for the*  
15 *applicable occupation that was approved by the chief or located*  
16 *outside California and approved for federal purposes pursuant to*  
17 *the apprenticeship regulations adopted by the federal Secretary*  
18 *of Labor.*

19 *(2) Has at least as many hours of on-the-job experience in the*  
20 *applicable occupation as would be required to graduate from an*  
21 *apprenticeship program for the applicable occupation that is*  
22 *approved by the chief.*

23 *2602. (a) When a contractor, bidder, or other entity is required*  
24 *to provide an enforceable commitment that a skilled and trained*  
25 *workforce will be used to complete a contract or project, the*  
26 *commitment shall be made in an enforceable agreement with the*  
27 *public entity or other awarding body that provides both of the*  
28 *following:*

29 *(1) The contractor, bidder, or other entity, and its contractors*  
30 *and subcontractors at every tier, will comply with this chapter.*

31 *(2) The contractor, bidder, or other entity will provide to the*  
32 *public entity or other awarding body, on a monthly basis while*  
33 *the project or contract is being performed, a report demonstrating*  
34 *compliance with this chapter.*

35 *(b) If the contractor, bidder, or other entity fails to provide the*  
36 *monthly report required by this section, or provides a report that*  
37 *is incomplete, the public agency or other awarding body shall*  
38 *withhold further payments until a complete report is provided.*

39 *(c) If a monthly report does not demonstrate compliance with*  
40 *this chapter, the public agency or other awarding body shall*

1 *withhold further payments until the contractor, bidder, or other*  
2 *entity provides a plan to achieve substantial compliance with this*  
3 *chapter, with respect to the relevant apprenticeable occupation,*  
4 *prior to completion of the contract or project.*

5 *(d) A monthly report provided to the public agency or other*  
6 *awarding body shall be a public record under the California Public*  
7 *Records Act (Chapter 3.5 (commencing with Section 6250) of*  
8 *Division 7 of Title 1 of the Government Code) and shall be open*  
9 *to public inspection.*

10 *SEC. 4. Section 20119.1 of the Public Contract Code is*  
11 *amended to read:*

12 20119.1. As used in this article:

13 ~~(a) “Apprenticeable occupation” means an occupation for which~~  
14 ~~the Chief of the Division of Apprenticeship Standards had approved~~  
15 ~~an apprenticeship program pursuant to Section 3075 of the Labor~~  
16 ~~Code prior to January 1, 2015.~~

17 ~~(b)~~

18 (a) “Best value” means a procurement process whereby the  
19 selected bidder may be selected on the basis of objective criteria  
20 for evaluating the qualifications of bidders with the resulting  
21 selection representing the best combination of price and  
22 qualifications.

23 ~~(c)~~

24 (b) “Best value contract” means a competitively bid contract  
25 entered into pursuant to this article.

26 ~~(d)~~

27 (c) “Best value contractor” means a properly licensed person,  
28 firm, or corporation that submits a bid for and is awarded a best  
29 value contract.

30 ~~(e)~~

31 (d) “Best value score” means the resulting score when the school  
32 district divides the bidder’s price by the bidder’s qualification  
33 score.

34 ~~(f)~~

35 (e) “Demonstrated management competency” means the  
36 experience, competency, capability, and capacity of the proposed  
37 management staffing to complete projects of similar size, scope,  
38 or complexity.

39 ~~(g)~~



1 (f) “Financial condition” means the financial resources needed  
2 to perform the contract. The criteria used to evaluate a bidder’s  
3 financial condition shall include, at a minimum, capacity to obtain  
4 all required payment bonds and required insurance.

5 ~~(h)~~

6 (g) “Governing board” or “governing board of the school  
7 district” means the governing board of the Los Angeles Unified  
8 School District.

9 ~~(i)~~

10 (h) “Labor compliance” means the ability to comply with, and  
11 past conformance with, contract and statutory requirements for  
12 the payment of wages and qualifications of the workforce. The  
13 criteria used to evaluate a bidder’s labor compliance shall include,  
14 at a minimum, the bidder’s ability to comply with the  
15 apprenticeship requirements of the California Apprenticeship  
16 Council and the Department of Industrial Relations, its past  
17 conformance with such requirements, and its past conformance  
18 with requirements to pay prevailing wages on public works  
19 projects.

20 ~~(j)~~

21 (i) “Project” has the same meaning as “public project” as defined  
22 in subdivision (c) of Section 22002.

23 ~~(k)~~

24 (j) “Qualifications” means financial condition, relevant  
25 experience, demonstrated management competency, labor  
26 compliance, the safety record of the bidder, and, to the extent  
27 relevant, the preceding qualifications as they pertain to all  
28 subcontractors proposed to be used by the bidder for designated  
29 portions of the work.

30 ~~(l)~~

31 (k) “Relevant experience” means the experience, competency,  
32 capability, and capacity to complete projects of similar size, scope,  
33 or complexity.

34 ~~(m)~~

35 (l) “Safety record” shall be deemed “acceptable” if a contractor’s  
36 experience modification rate for the most recent three-year period  
37 is an average of 1.00 or less, and its average total recordable injury  
38 or illness rate and average lost work rate for the most recent  
39 three-year period do not exceed the applicable statistical standards  
40 for its business category or if the bidder is a party to an alternative

1 dispute resolution system as provided for in Section 3201.5 of the  
2 Labor Code.

3 ~~(n)~~

4 ~~(m)~~ “School district” means the Los Angeles Unified School  
5 District.

6 ~~(o)~~ “Skilled and trained workforce” means a workforce that  
7 meets all of the following conditions:

8 ~~(1) All the workers are either skilled journeypersons or~~  
9 ~~apprentices registered in an apprenticeship program approved by~~  
10 ~~the Chief of the Division of Apprenticeship Standards.~~

11 ~~(2) (A) As of January 1, 2016, at least 20 percent of the skilled~~  
12 ~~journeypersons employed to perform work on the contract or~~  
13 ~~project by the entity and each of its subcontractors at every tier~~  
14 ~~are graduates of an apprenticeship program for the applicable~~  
15 ~~occupation that was either approved by the Chief of the Division~~  
16 ~~of Apprenticeship Standards pursuant to Section 3075 of the Labor~~  
17 ~~Code or located outside California and approved for federal~~  
18 ~~purposes pursuant to the apprenticeship regulations adopted by~~  
19 ~~the United States Secretary of Labor.~~

20 ~~(B) As of January 1, 2017, at least 30 percent of the skilled~~  
21 ~~journeypersons employed to perform work on the contract or~~  
22 ~~project by the entity and each of its subcontractors at every tier~~  
23 ~~are graduates of an apprenticeship program for the applicable~~  
24 ~~occupation that was either approved by the Chief of the Division~~  
25 ~~of Apprenticeship Standards pursuant to Section 3075 of the Labor~~  
26 ~~Code or located outside California and approved for federal~~  
27 ~~purposes pursuant to the apprenticeship regulations adopted by~~  
28 ~~the United States Secretary of Labor.~~

29 ~~(C) As of January 1, 2018, at least 40 percent of the skilled~~  
30 ~~journeypersons employed to perform work on the contract or~~  
31 ~~project by the entity and each of its subcontractors at every tier~~  
32 ~~are graduates of an apprenticeship program for the applicable~~  
33 ~~occupation that was either approved by the Chief of the Division~~  
34 ~~of Apprenticeship Standards pursuant to Section 3075 of the Labor~~  
35 ~~Code or located outside California and approved for federal~~  
36 ~~purposes pursuant to the apprenticeship regulations adopted by~~  
37 ~~the United States Secretary of Labor.~~

38 ~~(D) As of January 1, 2019, at least 50 percent of the skilled~~  
39 ~~journeypersons employed to perform work on the contract or~~  
40 ~~project by the entity and each of its subcontractors at every tier~~

1 ~~are graduates of an apprenticeship program for the applicable~~  
2 ~~occupation that was either approved by the Chief of the Division~~  
3 ~~of Apprenticeship Standards pursuant to Section 3075 of the Labor~~  
4 ~~Code or located outside California and approved for federal~~  
5 ~~purposes pursuant to the apprenticeship regulations adopted by~~  
6 ~~the United States Secretary of Labor.~~

7 ~~(E) As of January 1, 2020, at least 60 percent of the skilled~~  
8 ~~journeypersons employed to perform work on the contract or~~  
9 ~~project by the entity and each of its subcontractors at every tier~~  
10 ~~are graduates of an apprenticeship program for the applicable~~  
11 ~~occupation that was either approved by the Chief of the Division~~  
12 ~~of Apprenticeship Standards pursuant to Section 3075 of the Labor~~  
13 ~~Code or located outside California and approved for federal~~  
14 ~~purposes pursuant to the apprenticeship regulations adopted by~~  
15 ~~the United States Secretary of Labor.~~

16 ~~(3) For an apprenticeable occupation in which no apprenticeship~~  
17 ~~program had been approved by the chief prior to January 1, 1995,~~  
18 ~~up to one-half of the graduation percentage requirements of~~  
19 ~~paragraph (2) may be satisfied by skilled journeypersons who~~  
20 ~~commenced working in the apprenticeable occupation prior to the~~  
21 ~~chief's approval of an apprenticeship program for that occupation~~  
22 ~~in the county in which the project is located.~~

23 ~~(p) "Skilled journeyperson" means a worker who either:~~

24 ~~(1) Graduated from an apprenticeship program for the applicable~~  
25 ~~occupation that was approved by the chief or located outside~~  
26 ~~California and approved for federal purposes pursuant to the~~  
27 ~~apprenticeship regulations adopted by the federal Secretary of~~  
28 ~~Labor.~~

29 ~~(2) Has at least as many hours of on-the-job experience in the~~  
30 ~~applicable occupation as would be required to graduate from an~~  
31 ~~apprenticeship program for the applicable occupation that is~~  
32 ~~approved by the chief.~~

33 *SEC. 5. Section 20119.3 of the Public Contract Code is*  
34 *amended to read:*

35 20119.3. The governing board of the school district shall  
36 proceed in accordance with the following when awarding best  
37 value contracts under this article:

38 (a) The school district shall prepare a solicitation for bids and  
39 give notice pursuant to Section 20112.

(b) (1) The school district shall establish a procedure to prequalify bidders as required by this code. Information submitted by the bidder as part of the evaluation process shall not be open to public inspection to the extent that information is exempt from disclosure under the California Public Records Act (Chapter 3.5 commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(2) A best value entity shall not be prequalified or shortlisted unless the entity provides an enforceable commitment to the governing board that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades, *in accordance with Chapter 2.9 (commencing with Section 2600) of Part 1.*

~~(3) An entity's commitment that a skilled and trained workforce will be used to perform the project or contract may be established by any of the following:~~

~~(A) The entity's agreement with the school district that the entity and its subcontractors at every tier will comply with the requirements of this subdivision and that the entity will provide the governing board of the school district with evidence, on a monthly basis while the project or contract is being performed, that the entity and its subcontractors are complying with the requirements of this subdivision.~~

~~(B) If the governing board has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract and that includes the requirements of this subdivision, the entity's agreement that it will become a party to that project labor agreement.~~

~~(C) Evidence that the entity has entered into a project labor agreement that includes the requirements of this subdivision and that will bind the entity and all its subcontractors at every tier performing the project or contract.~~

*(3) Paragraph (2) shall not apply if either:*

*(A) The school district has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract and the entity agrees to be bound by that project labor agreement.*

1 (B) The entity has entered into a project labor agreement that  
2 will bind the entity and all its subcontractors at every tier  
3 performing the project or contract.

4 (4) For purposes of this subdivision, “project labor agreement”  
5 has the same meaning as in paragraph (1) of subdivision (b) of  
6 Section 2500.

7 (c) Each solicitation for bids shall do all of the following:

8 (1) Invite prequalified bidders to submit sealed bids in the  
9 manner prescribed by this article.

10 (2) Include a section identifying and describing the following:

11 (A) Criteria that the school district will consider in evaluating  
12 the qualifications of the bidders.

13 (B) The methodology and rating or weighting system that will  
14 be used by the school district in evaluating bids.

15 (C) The relative importance or weight assigned to the criteria  
16 for evaluating the qualifications of bidders identified in the request  
17 for bids.

18 (d) Final evaluation of the bidders shall be done in a manner  
19 that prevents the identity of the bidders and the cost or price  
20 information from being revealed in evaluating the qualifications  
21 of the bidders prior to completion of qualification scoring.

22 SEC. 6. Section 20155.2 of the Public Contract Code is  
23 repealed.

24 20155.2.—As used in this article:

25 (a) ~~“Apprenticeable occupation” means an occupation for which~~  
26 ~~the Chief of the Division of Apprenticeship Standards had approved~~  
27 ~~an apprenticeship program pursuant to Section 3075 of the Labor~~  
28 ~~Code prior to January 1, 2014.~~

29 (b) ~~“Skilled and trained workforce” means a workforce that~~  
30 ~~meets all of the following conditions:~~

31 (1) ~~All the workers are either skilled journeypersons or~~  
32 ~~apprentices registered in an apprenticeship program approved by~~  
33 ~~the Chief of the Division of Apprenticeship Standards.~~

34 (2) (A) ~~As of January 1, 2016, at least 20 percent of the skilled~~  
35 ~~journeypersons employed to perform work on the contract or~~  
36 ~~project by the entity and each of its subcontractors at every tier~~  
37 ~~are graduates of an apprenticeship program for the applicable~~  
38 ~~occupation that was either approved by the Chief of the Division~~  
39 ~~of Apprenticeship Standards pursuant to Section 3075 of the Labor~~  
40 ~~Code or located outside California and approved for federal~~

1 ~~purposes pursuant to the apprenticeship regulations adopted by~~  
2 ~~the United States Secretary of Labor.~~

3 ~~(B) As of January 1, 2017, at least 30 percent of the skilled~~  
4 ~~journeypersons employed to perform work on the contract or~~  
5 ~~project by the entity and each of its subcontractors at every tier~~  
6 ~~are graduates of an apprenticeship program for the applicable~~  
7 ~~occupation that was either approved by the Chief of the Division~~  
8 ~~of Apprenticeship Standards pursuant to Section 3075 of the Labor~~  
9 ~~Code or located outside California and approved for federal~~  
10 ~~purposes pursuant to the apprenticeship regulations adopted by~~  
11 ~~the United States Secretary of Labor.~~

12 ~~(C) As of January 1, 2018, at least 40 percent of the skilled~~  
13 ~~journeypersons employed to perform work on the contract or~~  
14 ~~project by the entity and each of its subcontractors at every tier~~  
15 ~~are graduates of an apprenticeship program for the applicable~~  
16 ~~occupation that was either approved by the Chief of the Division~~  
17 ~~of Apprenticeship Standards pursuant to Section 3075 of the Labor~~  
18 ~~Code or located outside California and approved for federal~~  
19 ~~purposes pursuant to the apprenticeship regulations adopted by~~  
20 ~~the United States Secretary of Labor.~~

21 ~~(D) As of January 1, 2019, at least 50 percent of the skilled~~  
22 ~~journeypersons employed to perform work on the contract or~~  
23 ~~project by the entity and each of its subcontractors at every tier~~  
24 ~~are graduates of an apprenticeship program for the applicable~~  
25 ~~occupation that was either approved by the Chief of the Division~~  
26 ~~of Apprenticeship Standards pursuant to Section 3075 of the Labor~~  
27 ~~Code or located outside California and approved for federal~~  
28 ~~purposes pursuant to the apprenticeship regulations adopted by~~  
29 ~~the United States Secretary of Labor.~~

30 ~~(E) As of January 1, 2020, at least 60 percent of the skilled~~  
31 ~~journeypersons employed to perform work on the contract or~~  
32 ~~project by the entity and each of its subcontractors at every tier~~  
33 ~~are graduates of an apprenticeship program for the applicable~~  
34 ~~occupation that was either approved by the Chief of the Division~~  
35 ~~of Apprenticeship Standards pursuant to Section 3075 of the Labor~~  
36 ~~Code or located outside California and approved for federal~~  
37 ~~purposes pursuant to the apprenticeship regulations adopted by~~  
38 ~~the United States Secretary of Labor.~~

39 ~~(F) For an apprenticeable occupation in which no apprenticeship~~  
40 ~~program had been approved by the Chief of the Division of~~

1 Apprenticeship Standards prior to January 1, 1995, up to one-half  
2 of the graduation percentage requirements of subparagraphs (A)  
3 to (E), inclusive, may be satisfied by skilled journeypersons who  
4 commenced working in the apprenticeable occupation prior to the  
5 chief's approval of an apprenticeship program for that occupation  
6 in the county in which the project is located.

7 (e) "Skilled journeyperson" means a worker who either:

8 (1) Graduated from an apprenticeship program for the applicable  
9 occupation that was approved by the Chief of the Division of  
10 Apprenticeship Standards or located outside California and  
11 approved for federal purposes pursuant to the apprenticeship  
12 regulations adopted by the United States Secretary of Labor.

13 (2) Has at least as many hours of on-the-job experience in the  
14 applicable occupation as would be required to graduate from an  
15 apprenticeship program for the applicable occupation that is  
16 approved by the Chief of the Division of Apprenticeship Standards.

17 *SEC. 7. Section 20155.4 of the Public Contract Code is*  
18 *amended to read:*

19 20155.4. (a) A best value contractor shall not be prequalified  
20 or shortlisted unless the contractor provides an enforceable  
21 commitment to the county that the contractor and its subcontractors  
22 at every tier will use a skilled and trained workforce to perform  
23 all work on the project or contract that falls within an  
24 apprenticeable occupation in the building and construction trades.  
25 *trades, in accordance with Chapter 2.9 (commencing with Section*  
26 *2600) of Part 1.*

27 (b) ~~A contractor's commitment that a skilled and trained~~  
28 ~~workforce will be used to perform the project or contract may be~~  
29 ~~established by any of the following:~~

30 (1) ~~The contractor's agreement with the county that the~~  
31 ~~contractor and its subcontractors at every tier will comply with the~~  
32 ~~requirements of this section and that the contractor will provide~~  
33 ~~the county with evidence, on a monthly basis while the project or~~  
34 ~~contract is being performed, that the contractor and its~~  
35 ~~subcontractors are complying with the requirements of this section.~~

36 (2) ~~If the county has entered into a project labor agreement that~~  
37 ~~will bind all contractors and subcontractors performing work on~~  
38 ~~the project or contract, and that includes the requirements of this~~  
39 ~~section, the contractor's agreement that it will become a party to~~  
40 ~~that project labor agreement.~~

~~(3) Evidence that the contractor has entered into a project labor agreement that includes the requirements of this section and that will bind the contractor and all its subcontractors at every tier performing the project or contract.~~

*(b) This section shall not apply if either:*

*(1) The county has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract and the contractor agrees to be bound by that project labor agreement.*

*(2) The contractor has entered into a project labor agreement that will bind the contractor and all its subcontractors at every tier performing the project or contract.*

*(c) For purposes of this section, “project labor agreement” has the same meaning as in paragraph (1) of subdivision (b) of Section 2500.*

*SEC. 8. (a) The amendments made by this act shall not apply to contracts that were advertised for bid or awarded before January 1, 2017.*

*(b) For contracts advertised for bid or awarded before January 1, 2017, for which an entity or contractor provided an enforceable commitment to a school district or county regarding the use of a skilled and trained workforce, pursuant to Section 17250.25 or 17407.5 of the Education Code or Section 20119.3 or 20155.4 of the Public Contract Code, the school district or county may grant a request by the entity or contractor that made the enforceable commitment to comply instead with this act.*

*SEC. 9. The Legislature finds and declares that Section 3 of this act, which adds Chapter 2.9 (commencing with Section 2600) to Part 1 of Division 2 of the Public Contract Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:*

*Because this act expressly subjects local public entities to the California Public Records Act for monthly reports to the awarding body on compliance with skilled and trained workforce*



1 *requirements for public contracts, the act furthers the purpose of*  
2 *Section 3 of Article I of the California Constitution.*

3 **SECTION 1.** ~~Section 25205 of the Public Resources Code is~~  
4 ~~amended to read:~~

5 25205. (a) ~~A person shall not be a member of the commission~~  
6 ~~who, during the two years prior to appointment on the commission,~~  
7 ~~received any substantial portion of his or her income directly or~~  
8 ~~indirectly from any electric utility, or who engages in sale or~~  
9 ~~manufacture of any major component of any facility. A member~~  
10 ~~of the commission shall not be employed by any electric utility,~~  
11 ~~applicant, or, within two years after he or she ceases to be a~~  
12 ~~member of the commission, by any person who engages in the sale~~  
13 ~~or manufacture of any major component of any facility.~~

14 (b) ~~Except as provided in Section 25202, the members of the~~  
15 ~~commission shall not hold any other elected or appointed public~~  
16 ~~office or position.~~

17 (c) ~~The members of the commission and all employees of the~~  
18 ~~commission shall comply with all applicable provisions of Section~~  
19 ~~19251 of the Government Code.~~

20 (d) ~~A person who is a member or employee of the commission~~  
21 ~~shall not participate personally and substantially as a member or~~  
22 ~~employee of the commission, through decision, approval,~~  
23 ~~disapproval, recommendation, the rendering of advice,~~  
24 ~~investigation, or otherwise, in a judicial or other proceeding,~~  
25 ~~hearing, application, request for a ruling, or other determination,~~  
26 ~~contract, claim, controversy, study, plan, or other particular matter~~  
27 ~~in which, to his or her knowledge, he or she, his or her spouse,~~  
28 ~~minor child, or partner, or any organization, except a governmental~~  
29 ~~agency or educational or research institution qualifying as a~~  
30 ~~nonprofit organization under state or federal income tax law, in~~  
31 ~~which he or she is serving, or has served as officer, director, trustee,~~  
32 ~~partner, or employee while serving as a member or employee of~~  
33 ~~the commission or within two years prior to his or her appointment~~  
34 ~~as a member of the commission, has a direct or indirect financial~~  
35 ~~interest.~~

36 (e) ~~A person who is a partner, employer, or employee of a~~  
37 ~~member or employee of the commission shall not act as an attorney,~~  
38 ~~agent, or employee for any person other than the state in connection~~  
39 ~~with any judicial or other proceeding, hearing, application, request~~  
40 ~~for a ruling, or other determination, contract, claim, controversy,~~

1 study, plan, or other particular matter in which the commission is  
2 a party or has a direct and substantial interest.

3 (f) The provisions of this section shall not apply if the Attorney  
4 General finds that the interest of the member or employee of the  
5 commission is not so substantial as to be deemed likely to affect  
6 the integrity of the services that the state may expect from the  
7 member or employee.

8 (g) Any person who violates any provision of this section is  
9 guilty of a felony and shall be subject to a fine of not more than  
10 fifty thousand dollars (\$50,000) or imprisonment pursuant to  
11 subdivision (h) of Section 1170 of the Penal Code, or both that  
12 fine and imprisonment.

13 (h) The amendment of subdivision (d) of this section enacted  
14 by the 1975-76 Regular Session of the Legislature does not  
15 constitute a change in, but is declaratory of, existing law.